IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 979 OF 2004

Office notes, office Memoranda of Coram, appearances, Court's orders or directions & Registrar's orders	:	Court's or Judge's Orders

Shri A.S.Shitole, A.P.P. for the State.

CORAM: R.S.Mohite, J.
DATE : 13th January, 2006.

P.C.:

1. This is an appeal filed by the State impugning the judgment and order passed by the Judicial Magistrate First Class, Phaltan on 5/4/2004 acquitting the accused for the offences punishable under section 279, 304-A, 337, 338 of the Indian Penal Code and under section 184 of the Motor Vehicles Act. On perusal of the judgment and order, it is seen that the same is based on cogent and acceptable reasons. The accused was driver of the truck. Evidence indicates that he was driving a truck

at 30 kilometres per hour and the truck was loaded. The tempo trax in which deceased were travelling overtook the truck in the same direction at high speed but on overtaking, they found that they have come on a slope and narrow bridge. The defence was to save the situation the tempo trax driver tried to cut across the truck and as he applied brakes, truck hit him from behind. This is unfortunate case where a vehicle overtaking another heavier vehicle has been hit from the rear side. The Court has rightly found that there is no evidence to show rash and negligence on the part of truck driver who was at a moderate speed and who was driving on the correct side. The view taken is thus, a possible view. And therefore, leave is refused and consequently, the appeal stands dismissed.

(R.S.Mohite, J.)